IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 358 of 2007(P)

PETITIONER:

S. JAYAKUMARAN NAIR, AGED 65 YEARS,
RETIRED LECTURER, SELECTION GRADE IN
POLITICS, RESIDING AT KRISHNALATHA,
T.C.27/1911, PUTHEN ROAD, VANCHIYOOR P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.T.P.DEYANANTHAN

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF FINANCE, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

3. ACCOUNTANT GENERAL OF KERALA, A & E,
THIRUVANANTHAPURAM.

4. THE DIRECTOR OF COLLEGIATE EDUCATION
VIKAS BHAVAN, THIRUVANANTHAPURAM-695 033.

BY GOVERNMENT PLEADER SRI.MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 358 of 2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE LETTER NO.PM/Pen A/AP/354/97-98/426 DATED 1.8.97 FROM THE THIRD RESPONDENT

EXT.P2- TRUE COPY OF THE ORDER G.O.(P) NO.3001/98/Fin DATED 25.11.98 ISSUED BY THE FIRST RESPONDENT

EXT.P3- TRUE COPY OF THE ORDER G.O.(P)118/01/91/Fin DATED 17.1.2001 ISSUED BY THE FIRST RESPONDENT

EXT.P4- TRUE COPY OF THE VERIFICATION CERTIFICATE NO.P18/REVN/623/AD/01-02 DATED 1.3.02

EXT.P5- TRUE COPY OF THE REPRESENTATION DATED 20.3.02 SUBMITTED BY FIRST RESPONDENT

EXT.P6- TRUE COPY OF the COUNTER AFFIDAVIT DATED 11.3.05 FILED BY THE SECOND RESPONDENT

EXT.P7- TRUE COPY OF THE FULL TEXT OF R.P.230/06-Y

EXT.P8- TRUE COPY OF OTHE ORDER DATED 4.10.06 IN R.P.230/06-Y.

(TRUE COPY)

P.A TO JUDGE

S.SIRI JAGAN,J

==========

W.P.(C).No.358 of 2007

==========-==========

Dated this the 30th day of October, 2007

JUDGMENT

The petitioner retired as Selection Grade Lecturer in Politics from a College under the N.S.S Corporate Management on 31.03.1997. The Petitioner's actual date of superannuation was 30.11.1996. But he continued in service up to 31.03.1997 by virtue of Rule 60(c) of the Kerala Service Rules. Earlier an issue arose as to whether the benefits of pay revision declared with effect from 1.03.1997 could be extended to those teachers who continued in service beyond 01.03.1997 by in tone of Rule 60(c) although their actual date of superannuation fell before 1.03.1997. This Court and Supreme Court upheld the right of such teachers for pay revision benefits, increments etc. The petitioner is seeking that benefit in this writ petition based on the decision of this Court as well as that of the Supreme Court upholding such rights. In the above circumstances the petitioner seeks the following reliefs:

i) “to issue a writ of certiorari or any other writ or order calling for details relating to Ext.P11 and examine the legality,

propriety and constitutionality and quash the same.

ii) to issue a writ of mandamus or any other writ or order directing the 2nd respondent to pass orders granting enhanced rate of commuted value of pension and DCRG at the revised rate of pension with interest from the date that it had become due;

iii) to declare that the petitioner is entitled to enhanced rate of commuted value of pension and DCRG at the revised rate of pension with interest after the date of his retirement on 31.3.1997.

iv) to direct the 2nd and 3rd respondents to release the pensionary benefits with penal interest from the date of retirement to till the date of its payment:"

The learned Government Pleader submits that by S.R.O No.591/2006, Rule 60(c) was amended with retrospective effect from 15.05.1986, laying down that persons continuing in service by virtue of Rule 60(c) beyond their actual date of superannuation would not be entitled to benefit of pay revision if they attained age of superannuation before the date of effect of pay revision. The Government Pleader submits that in view of amendment with retrospective effect the petitioner is not entitled to the reliefs prayed for. Since there is no challenge against the said Government Order, I am satisfied that the

petitioner is not entitled the reliefs prayed for, accordingly the writ petition is dismissed.

S.SIRI JAGAN, JUDGE

dvs